

Supplement not Supplant

F-14. Does *Title II, Part A* have a supplement not supplant requirement?

Yes. Sections 2123(b) (for LEAs) and 2113(f) (for the SEA and SAHE) provide that *Title II, Part A* funds must be used to supplement, and not supplant, any non-Federal funds that would otherwise be used for authorized *Title II, Part A* activities.

F-15. May *Title II, Part A* funds be used for State-mandated activities?

The ability of an SEA or LEA to use *Title II, Part A* funds to carry out activities mandated by a State depends upon whether non-Federal funds are available to carry out those activities. Presumably, in the absence of *Title II, Part A* funds, the SEA or LEA would use State or local funds to implement any laws enacted by the State legislature or rules mandated by the State Board of Education or the SEA. If that is the case, using *Title II, Part A* funds for those activities would violate the non-supplanting requirement, because the SEA or LEA would be using Federal funds for activities that it would otherwise support with other funds.

However, in certain instances, an SEA or LEA may be able to overcome the presumption that supplanting will result if *Title II, Part A* funds are used for a State-mandated program or activity. In order to make such a case, the SEA or LEA should have available written documentation (e.g., budget information, planning documents, or other materials) demonstrating that it would not be able to meet State mandates without the use of *Title II, Part A* funds. An agency must be able to reasonably document that the activities funded under *Title II, Part A* are, in fact, supplemental, even though some of them are mandated by the State.

In general, an SEA or LEA must determine what educational activities it would support if no *Title II, Part A* funds were available. If it is clear that no State or local funds remain available to fund certain activities that previously were funded with State or local resources, then the SEA or LEA may be able to use *Title II, Part A* funds for those activities. In no event, however, may an SEA or LEA decrease State or local funds for particular activities simply because *Title II, Part A* funds are available.